

Attorney Docket No. NATI-002/01US

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Stephen Alan Jobling *et al.* Confirmation No.: 3594

Serial No.: 10/632,341 Group Art Unit: 1638

Filed: August 1, 2003 Examiner: Brent T. Page

FOR: METHODS FOR PRODUCING MODIFIED STARCH

U.S. Patent and Trademark Office
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Alexandria, VA 22314

RESPONSE TO *EX PARTE QUAYLE* OFFICE ACTION

This paper is submitted in response to the *Ex Parte Quayle* Office Action mailed on August 6, 2008. A one-month extension of time is hereby requested, thereby making the time to respond November 6, 2008. Exhibits A-E are being submitted herewith.

As an initial matter, Applicants' representatives Jayme Huleatt and Anna Solowiej would like to thank Examiner Brent Page and Examiner's Supervisor Anne Marie Grunberg for a courteous telephonic interview conducted on November 5, 2008. Procedural history of the parent PCT Application PCT/GB99/01902 and parent national phase application U.S. Serial Number 09/719,771 was discussed. Applicants alerted the Examiner to the fact that a Petition for Revival of an International Application PCT/GB99/01902 was filed. Supervisor Grunberg indicated that if the Petition for Revival is granted, the present procedural issues will most likely become moot.

According to the Examiner at page 3 of the Office Action,

[t]he Oath currently states that the parent application 09/719771 was filed 12/14/2000 which is not consistent with PTO records that indicate the application was filed 03/05/2001. A new Oath or Declaration is required that is consistent with PTO records or a statement or evidence that indicates that the stated date is correct.

Applicants submit that the December 14, 2000, date included on the Declaration is a correct filing date and a new Declaration or Oath is not necessary.

The present application is a divisional application, claiming priority to application U.S. Serial Number 09/719,771 ('771 application), which, in turn, is a national phase of PCT application PCT/GB99/01902. The "Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. § 371" for the national stage entry was mailed by first-class mail on December 14, 2000 (copy submitted herewith as Exhibit A, showing a certificate of mailing). Therefore, the filing date of the parent U.S. application is December 14, 2000, as stated on the Declaration in the record. The Transmittal Letter was submitted with a basic national fee, the Declaration was mailed on March 2, 2001, and the '771 application was accepted under Section 371 on March 5, 2001 (copies of the Declaration, the stamped Response to Notice to File Missing Parts, and the Notification of Acceptance are submitted herewith as Exhibits B, C, and D, respectively). The '771 application ultimately issued as a U.S. Patent No. 6,635,756. The first maintenance fee has been timely paid and accepted by the U.S. Patent and Trademark Office on 04/04/2007.

Applicants also note that while reviewing the file history of the '771 application, they became aware that the 30-month deadline for entering the national phase in the U.S. was December 15, 2000. The Patent Office received and stamped the Transmittal Letter on December 18, 2000. Applicants are aware that new applications mailed by first-class mail obtain the filing date of the day they are received by the Patent Office. On October 21, 2008, Applicants submitted a Petition for Revival of an International Application PCT/GB99/01902 to achieve copendency of the PCT application and the '771 application. The Petition is currently pending, and its copy is included herewith as Exhibit E.

In summary, Applicants submit that the Declaration on the record correctly states the filing date of the parent application '771 as December 14, 2000, as this is the date on which the national phase was entered (as evidenced by the certificate of mailing on the Transmittal Letter)

and should be accepted. Applicants submit that this explanation has obviated the formal matter raised in the *Ex Parte Quayle* Action. Allowance of the pending claims is respectfully requested.

CONCLUSION

It is respectfully submitted that the above-identified application is now in a condition for allowance and favourable reconsideration and prompt allowance are respectfully requested. Should the Examiner believe that anything further is desirable in order to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

The Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 (with the exception of the issue fee) which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-1283. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Dated: November 6, 2008

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